

CITY OF MUSKEGON
PLANNING COMMISSION
REGULAR MEETING
MINUTES

February 15, 2007

Chairman J. Aslakson called the meeting to order at 4:04 p.m. and roll was taken.

MEMBERS PRESENT: J. Aslakson, T. Harryman B. Turnquist, B. Mazade, L. Spataro, B. Larson, S. Warmington,

MEMBERS ABSENT: T. Michalski, excused; B. Smith, excused

STAFF PRESENT: L. Anguilm, D. Leafers

OTHERS PRESENT: G. Post, 4460 Deer Creek; D. Spezia, Sidock Group

ELECTION OF OFFICERS

A motion to nominate T. Michalski for Chairman was made by B. Larson, supported by T. Harryman and unanimously approved.

A motion to nominate B. Turnquist for Vice-Chairman was made by B. Larson, supported by J. Aslakson and unanimously approved.

J. Aslakson continued to chair this meeting.

APPROVAL OF MINUTES

A motion that the minutes of the regular meeting of January 11, 2007 be approved was made by B. Larson, supported by L. Spataro and unanimously approved.

NEW BUSINESS/PUBLIC HEARINGS

S. Warmington arrived at 4:08 p.m.

B. Mazade arrived at 4:10 p.m.

Hearing; Case 2007-03: Request to amend the Final PUD for 100 Muskegon Mall, for the properties located at 350, 356, 360, and 376 W. Western Avenue, by Gary Post, Western Avenue Properties, LLC. L. Anguilm presented the staff report. The properties currently consist of three vacant buildings and a vacant parcel. They are zoned B-3, Central Business with a PUD Overlay. The applicant received approval for the Final PUD from City Commission on February 22, 2005. At that time, the site plan only included the proposed street grid, location of five existing buildings, and “buildings and structures as proposed and the spatial relationship to each other and existing downtown structures”. Uses within existing or newly developed buildings had not yet been determined, but the approval was for “mixed use, residential and commercial”. The PUD was amended in June 2005 to revise the street design. The changes included eliminating two traffic

circles, and adding one at the corner of Third and Western. Also changed was the configuration of Jefferson Street, eliminating two intersections. The changes proposed at this time are minimal, since these are existing buildings that encompass all the property on each parcel. Also included is the 30 x 105.72 ft. vacant parcel at 376 W. Western, proposed as a courtyard for pedestrian access and possible outdoor seating for a future restaurant. Decorative paving and some limited landscaping will be installed for curb appeal. If a deli or fast food restaurant is included in one of the commercial spaces in the Daniel's building, it is possible there will be room for some outdoor seating in this area, as depicted on the drawings. The entrance to the elevator would also be off of the courtyard area. The northwest portion of the Daniel's building would be demolished and that area used to accommodate the elevator and house the utility meters, transformers and other utility equipment. There would be screening and a gate provided for this equipment. One of the major issues with this request involves determining that the three sites have adequate parking. This is very difficult to determine at this time, since only 356 W. Western's (the former Century Club) use has been determined, although some other uses are anticipated for some of the spaces. In order to make a best guess on the required parking for the three structures, staff worked with the developer using the square footages of each space to come up with an approximation of total parking for commercial and residential uses. It appears that the best estimate is around 245 spaces. This number is after the 30% allowed on-street parking is subtracted from the total. The owners of the property have acquired a parking agreement with Downtown Muskegon Development Corporation (DMDC) for 50 parking spaces located on the property at the corner of Third and Morris. This number of spaces is only enough to accommodate the majority of the spaces needed for the former Daniel's and Century Club buildings. For the third building, the former Muskegon Savings Bank, figures used for the parking calculations were those for a restaurant for the majority of the space, and commercial for the remainder. A restaurant use has the most intensive parking requirements, but the developer preferred to use a worst case scenario for the calculations. Staff would recommend the owner be required, as a condition of approval of this request, to obtain additional parking agreements when necessary as each building is leased for uses in the future. The Planning Department has the following conditions for approval: a) parcel numbers need to be shown on the site plan, b) no outdoor lighting is indicated. Any proposed outdoor lighting must be 100% cut-off style, c) site plan must show location of fire lanes and fire lock boxes, d) additional parking agreements must be approved by the Planning Department for the Muskegon Savings Bank building as the space is developed and leased. DPW and Police approved of the revised site plan. The Fire Department lists the following conditions of approval: a) all available fire hydrants shall be shown or listed on plans, b) key boxes required for Fire Department access, c) water supply fire flow information shall be submitted to Fire Marshall's office and DPW, d) alleyway shall be designated as fire lane, e) the project shall comply with International Fire Code 2003 Edition, Chapter 5 fire service features, Appendix C for hydrant distribution and location, f) project shall comply with International Fire Code, Appendix D for fire apparatus roads. See D 105 for aerial access requirements. Public road shall be adjusted to meet aerial access on Western Avenue in front of buildings, g) list proposed building construction type. Engineering had the following comments: a) the service lines shown on sheet #2 are existing, not proposed, b) the sanitary sewer service shown on sheet #2 to unit #5 is in the back, not off of Western as shown and notes on said sheet. Staff has received no other comments on this request and recommends approval.

L. Anguilm stated that some of the fire department's concerns had already been addressed. J. Aslakson was concerned about parking. He stated that was a major issue for the Frauenthal Theater and Walker Arena. S. Warmington explained some of the parking requirements for previous PUD's. He asked L. Anguilm if the parking calculations were based on square footage. L. Anguilm

stated that it was based on what type of use was in the building. B. Larson asked at what point firm parking agreements were required. L. Anguilm stated before development starts. S. Warmington suggested having DMDC representatives appear at a future Planning Commission meeting to discuss parking, as well as someone from the County, regarding grant funds for parking. T. Harryman asked if the type of business was taken into account as far as the hours of use, such as those places that were primarily used in the evenings or only during the day. L. Anguilm stated that the only type of use was considered, not the time of day. L. Spataro agreed with asking DMDC representatives to attend a meeting.

G. Post stated that, based on the proposed commercial use, the Daniels building needed 43 parking spaces, and 19 for the furniture store. The estimated restaurant use of the Muskegon Savings Bank was where all the other parking came in. They wanted to use a “worst case scenario” for the parking, and a restaurant required the most spaces. L. Anguilm stated that restaurant spaces were based on occupancy, and did not include employees. J. Aslakson stated that he was comfortable with allowing the applicant to acquire parking agreements as the uses were developed. G. Post stated that there was some flexibility within the PUD to make some adjustments regarding parking. The 50 spaces from the DMDC agreement was a start, but they were also concerned with having enough. He reviewed the drawings of the proposed development and answered questions from board members.

A motion to close the public hearing was made by L. Spataro, supported by B. Turnquist and unanimously approved.

A motion that the minor amendment to the Final PUD for 100 Muskegon Mall, 350, 356, 360, and 376 W. Western Avenue be approved pursuant to the determination of compliance with the intent of the City Zoning Ordinance and City Master Land Use Plan, subject to the requirement that all conditions listed by the Planning and Fire Departments in #9 and #11 of the staff report be met, was made by S. Warmington, supported by T. Harryman and unanimously approved.

Hearing; Case 2007-04: Staff-initiated request to amend Section 2319, (Residential Design Criteria), # 22 of Article XXIII, General Provisions, regarding vegetative ground cover. L. Anguilm presented the staff report. There have been complaints recently regarding the use of dune grass as “vegetative ground cover” in a Lakeside development. Although staff has informed the developer that he would need to provide a lawn within one year, staff felt it may be in the best interest of future developments and the City to strengthen the language and made it very clear as to what is required. The new language below is the way in which this section has been applied in the past, but hopefully the clarification of the actual language will help in the future. New language (deletions are ~~crossed-out~~ and additions are in **bold**): 22. Each dwelling unit shall have an **approved** established vegetative ground cover, **native to the immediate area within 600 feet**, no less than 12 months after occupancy. **Approval shall be given by zoning staff of the Planning Department as part of the initial residential site plan review.** A minimum of one shade tree, two and one-half inches (2.5”) in diameter, four feet (4’) from the ground or one six foot (6’) evergreen tree shall be provided. Existing landscaping may be accepted in lieu of this requirement.

S. Warmington asked if the 600 feet would extend to the Grand Trunk property and what would be considered “native” there. L. Anguilm stated that in the past, the 600 feet was considered to be on the same side of the street. S. Warmington wanted to take care not to exclude those having a legitimate use for native vegetation, such as beach grass. B. Mazade asked if the phrase “Approval shall be give by zoning staff...” was included in order to get the issue resolved in the beginning

stages of a project. L. Anguilm stated that was correct.

A motion to close the public hearing was made by B. Mazade, supported by B. Larson and unanimously approved.

A motion that the amendment to Section 2319, #22, (Residential Design Criteria) of Article XXIII, General Provisions, of the City of Muskegon Zoning Ordinance, be recommended to the City Commission for approval, was made by B. Larson, supported by B. Mazade and unanimously approved.

Hearing; Case 2007-05: Staff-initiated request to amend Section 2308, (Outdoor Seating), of Article XXIII, General Provisions, to add language for outdoor seating for restaurants and similar uses. L. Anguilm presented the staff report. Staff knows of at least two restaurants on Western Avenue who would like to add outdoor seating to their businesses. With the development of the downtown moving forward at a rapid pace, it seems like the right time to put this language in place to help regulate outdoor seating in all commercial areas. This language helps protect established businesses from street vendors who may try to set up in front of their establishment, since the seating must be ancillary to the main use of the building. It also helps control such things as noise, pedestrian circulation, encroachment on the public right-of-way, and provide for aesthetically compatible outdoor furniture. The proposed new language is as follows: Outdoor seating for restaurants, cocktail lounges, and similar uses is permitted, provided: 1. The area devoted to outdoor seating must be ancillary to the main use of an indoor restaurant, cocktail lounge, bakery, coffee shop, delicatessen, specialty food store, or similar establishment. 2. Pedestrian circulation and access to the building entrance shall not be impaired. A minimum of three (3) feet of sidewalk along the curb and leading to the entrance to the establishment must be maintained free of tables, chairs, and other encumbrances. 3. The seating area shall be limited to the same property directly adjacent to the permitted use to which the seating area is accessory and shall not extend into adjoining sites. If adjoining sites both have a seating area, there shall be a divider between them. 4. Tables, chairs, umbrellas, canopies, planters, waste receptacles, and other elements of street furniture shall be compatible with the architectural character of the principal building. 5. Outdoor amplification shall be prohibited except only to play music in compliance with Code of Ordinances, City of Muskegon, Part II, Chapter 26, Article II, Noise, Division I, Generally, Sec. 2634, (a & b) "Playing of radios, musical instruments, etc." 6. The area devoted to outdoor service shall not encroach upon or extend over any public alley or right-of-way without an encroachment agreement with the City of Muskegon. 7. A site plan shall be submitted which clearly depicts the seating area and location and style of tables and chairs, reflecting ample aisles for pedestrian traffic, and dividers, if needed. 8. The outdoor seating area shall not obstruct visibility of oncoming pedestrians or vehicular traffic, and must adhere to clear visions standards of the Zoning Ordinance. 9. The sale of alcoholic beverages is subject to the rules and regulations of the State of Michigan Liquor Control Commission. 10. All outdoor furnishings shall be completely removed from sidewalk areas December 1 through March 1 of each year. 11. The area devoted to such outdoor dining shall be maintained in a safe, clean, and sanitary manner. 12. Roof seating shall comply with the building code, and shall not contain signage.

L. Anguilm stated that much of the proposed language came from the MML. L. Spataro wasn't sure that 3 feet would be enough for a clear aisle, and asked if staff had checked with the Fire Marshal to see if it was sufficient. L. Anguilm stated that she hadn't yet, but she would. S. Warmington thought that 3 feet would be enough room, and that it should be left up to business owners to determine what their customers would be comfortable with, as long as the 3 feet was

approved by the Fire Marshal. T. Harryman agreed, and stated that Muskegon should be as business-friendly as possible. J. Aslakson asked about condition #9 regarding alcoholic beverages and if customers would be able to access outdoor seating areas without going inside the restaurant. S. Warmington stated that, judging from what he'd seen in other communities, that was allowed. He wanted to make sure that language was included in the ordinance stating that Liquor Control Commission requirements must be met, and if the applicant had a liquor license that they must get pre-approval from the LCC. B. Larson asked if the term "ample aisles" in #7 was too vague. L. Spataro thought there were ADA laws that covered that. He suggested amending #9 to say that an applicant must have proper license or endorsement from the LCC.

A motion to close the public hearing was made by B. Larson, supported by B. Mazade and unanimously approved.

A motion that the amendment to Section 2308, (Outdoor Seating) of Article XXIII, General Provisions, of the City of Muskegon Zoning Ordinance, be recommended to the City Commission for approval, with the addition of language regarding LCC approval in condition #9 as suggested by L. Spataro, was made by S. Warmington, supported by T. Harryman and unanimously approved. L. Spataro asked that staff run the language by the Fire Marshal before it went to Commission.

OTHER

B. Mazade talked about City staff dealings with the county and the DMDC regarding downtown parking issues. B. Larson asked if staff could contact the DMDC regarding parking. S. Warmington agreed that the issue needed to be addressed now.

A motion to have staff request that a representative from the DMDC attend the next Planning Commission meeting to discuss parking was made by S. Warmington, supported by L. Spataro and unanimously approved.

There being no further business, the meeting was adjourned at 5:15 p.m.

dml
02/15/07